

SUPREME COURT OF ARIZONA

In the Matter of a Member of the	)	Arizona Supreme Court
State Bar of Arizona,	)	No. SB-22-0056-AP
	)	
LISE R. WITT,	)	Office of the Presiding
Attorney No. 13118	)	Disciplinary Judge
	)	No. PDJ20219111
Respondent.	)	
_____	)	<b>FILED 03/09/2023</b>

**DECISION ORDER**

This appeal of a disciplinary proceeding involves allegations of professional misconduct by Respondent Lise R. Witt<sup>1</sup> involving her communications with and actions on behalf of a represented person who was also a co-defendant of Ms. Witt's client.

**Violations**

The Panel found Ms. Witt violated ER 4.2 (prohibiting a lawyer from communicating with a party involved in a matter who the lawyer knows is represented by counsel in that matter, known as the "no-contact" rule) and ER 8.4(d) (prohibiting conduct prejudicial to the administration of justice). The Panel issued a sanction in the form of a reprimand, an enhanced CLE requirement, probation and payment of costs to the Bar. Both parties appealed.

The Panel determined that the Bar did not prove the following violations by clear and convincing evidence: ER 4.4(a) (prohibiting lawyers from using methods of obtaining evidence that violate the

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<sup>1</sup> In her emails and letterhead, Ms. Witt uses "Lisa Witt" on behalf of "LisaLaw LLC."

legal rights another person), ER 4.1 (knowingly making a false statement of material fact or law to a third person) or ER 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation).

The Court accepts the Bar's appeal and affirms the Panel's finding that Respondent violated ER 4.2 and 8.4(d).

The Court also finds that Respondent knowingly violated ER 4.4(a), ER 4.1 and ER 8.4(c).

### **Aggravating and Mitigating Factors**

The Panel found the following aggravating factors, and the Court affirms the finding that 9.22(a) (prior disciplinary offenses) and 9.22(i) (substantial experience in the practice of law) apply.

The Court also finds 9.22(h) (vulnerability of the victim) to be an aggravating factor.

The Panel found the following mitigating factors, and the Court affirms the finding that 9.32(b) (absence of a dishonest or selfish motive), 9.32(e) (full and free disclosure to disciplinary board or cooperative attitude toward proceedings), and 9.32(l) (remorse) apply.

### **Sanction**

In *Alcorn*, this Court reiterated the importance of lawyer discipline as a deterrent to other attorneys: "Perhaps more important than rehabilitation of an individual attorney, however, is the value of discipline as a deterrent to other attorneys and as a process that maintains 'the integrity of the profession in the eyes of the

public.'" *In re Alcorn*, 202 Ariz. 62, 75 ¶ 48 (2002).

"Suspension is generally appropriate when a lawyer engages in communication with an individual in the legal system when the lawyer knows that such communication is improper, and causes injury or potential injury to a party or causes interference or potential interference with the outcome of the legal proceeding." ABA Standard 6.32. "Generally, suspension should be for a period of time equal to or greater than six months," ABA Standard 2.3. Although we note that the presumptive length of a suspension would be six months, we are guided by this Court's discussion in *Matter of Davis*. In that case, we determined, "Generally, where suspension is deemed appropriate, the Standards suggest a minimum suspension of six months. Standards 2.3. However, the Commission recommended a sixty-day suspension, noting that, as a solo practitioner, 'any suspension will be devastating to her practice ... [and] a six-month suspension would be tantamount to disbarment.'" *Matter of Davis*, 181 Ariz. 263, 266-67 (1995).

### **Conclusion**

As noted above, the Court accepts the Bar's appeal. The Court denies Ms. Witt's cross-appeal, finds the Panel did not err in denying her motion for summary judgment, did not err in rejecting her contention that the greatest punishment to which she was subject was admonition, and denies the request for attorney fees under A.R.S. § 12-353(A) and A.R.S. § 12-349. Therefore,

**IT IS ORDERED** Ms. Lise R. Witt is suspended from the practice of law for **120 days** effective 30 days from the date of this Order and is to be placed on probation for two years upon reinstatement.

**IT IS FURTHER ORDERED** affirming the Panel's requirement that Ms. Witt obtain five additional hours of CLE above the annual requirement for each year of probation on the terms set forth by the Panel. The five hours of additional CLE must consist of professional responsibility/ethics.

**IT IS FURTHER ORDERED** that Ms. Witt shall pay costs and expenses of these proceedings prior to being reinstated, which include costs incurred by the State Bar and by the Office of the Presiding Judge.

An opinion will follow.

DATED this 9th day of March, 2023.

/s/  
ROBERT BRUTINEL  
Chief Justice

TO:

Kathleen E Brody

Lise R Witt

Stephen P Little

Susan Hunt

Sandra Montoya

Maret Vessella

Don Lewis

Beth Stephenson

Mary Pieper

Mary Rose Dominguiano

Princess Mutya Zorilla

Lexis Nexis

Kathleen E. Brody (#026331)  
kathy@mscclaw.com  
MITCHELL | STEIN | CAREY | CHAPMAN, PC  
2600 North Central Avenue, Suite 1000  
Phoenix, AZ 85004  
Telephone: (602) 358-0290  
Facsimile: (602) 358-0291

Attorneys for Respondent

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

IN THE MATTER OF A MEMBER OF	)	No. PDJ 2021-9111
THE STATE BAR OF ARIZONA,	)	
	)	State Bar No. 21-2120
	)	
LISE R. WITT,	)	<b>RESPONDENT'S NOTICE OF</b>
Bar No. 013118,	)	<b>CROSS-APPEAL</b>
	)	
Respondent.	)	

Respondent Lise R. Witt provides notice that she cross-appeals from the Hearing Panel's Decision and Order Imposing Sanctions filed July 15, 2022. *See* Ariz. R. Sup. Ct. 59(a).

RESPECTFULLY SUBMITTED August 9th, 2022.

MITCHELL | STEIN | CAREY | CHAPMAN, PC

By: Kathleen Brody  
Attorneys for Respondent

1 **ORIGINAL** filed with the Disciplinary Clerk of  
2 the Office of the Presiding Disciplinary Judge  
3 of the Supreme Court of Arizona this  
9th day of August, 2022:

4 The Honorable Margaret H. Downie  
5 Presiding Disciplinary Judge  
6 Supreme Court of Arizona  
7 1501 West Washington Street, Suite 102  
8 Phoenix, Arizona 85007  
Email: [officepdj@courts.az.gov](mailto:officepdj@courts.az.gov)

9 Copy of the foregoing emailed  
10 this 9th day of August, 2022, to:

11 Lawyer Regulation Records Manager  
12 State Bar of Arizona  
13 Stephen P. Little  
14 4201 N. 24th Street, Suite 100  
15 Phoenix, Arizona 85016-6266  
Email: [LRO@staff.azbar.org](mailto:LRO@staff.azbar.org)  
Attorneys for Arizona State Bar

16 Kedney Brady  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Stephen P. Little, Bar No. 023336  
Senior Bar Counsel  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
Telephone (602) 340-7247  
Email: LRO@staff.azbar.org

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

**IN THE MATTER OF A MEMBER  
OF THE STATE BAR OF ARIZONA,**

**LISE R. WITT  
Bar No. 013118**

Respondent.

**PDJ 2021-9111**

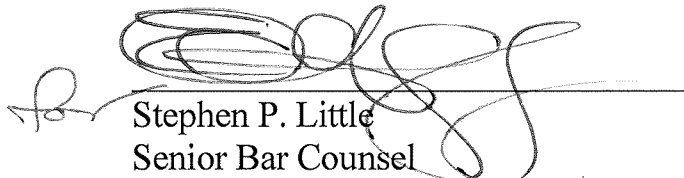
**STATE BAR'S NOTICE OF  
APPEAL**

State Bar No. 21-2120

Pursuant to Rule 59, Ariz. R. Sup. Ct., notice is hereby given that the State Bar of Arizona, by and through the undersigned bar counsel, appeals to the Supreme Court of Arizona from the Presiding Disciplinary Judge's order entered in this action on July 15<sup>th</sup>, 2022.

**DATED** this 21<sup>st</sup> day of July 2022.

**STATE BAR OF ARIZONA**

  
Stephen P. Little  
Senior Bar Counsel



Original filed with the Disciplinary Clerk of  
the Office of the Presiding Disciplinary Judge  
of the Supreme Court of Arizona  
this 21<sup>st</sup> day of July, 2022.


Copy of the foregoing emailed  
this 21<sup>st</sup> day of July, 2022, to:

The Honorable Margaret H. Downie  
Presiding Disciplinary Judge  
Supreme Court of Arizona  
1501 West Washington Street, Suite 102  
Phoenix, Arizona 85007  
Email: [officepdj@courts.az.gov](mailto:officepdj@courts.az.gov)

Copy of the foregoing emailed  
this 21<sup>st</sup> day of July, 2022, to:

Kathleen E. Brody  
Mitchell Stein Carey Chapman PC  
2600 N. Central Avenue, Ste. 1000  
Phoenix, Arizona 85004-3013  
Email: [kathy@mscclaw.com](mailto:kathy@mscclaw.com)  
Respondent's Counsel

Lawyer Regulation Records Manager  
State Bar of Arizona  
4201 N. 24<sup>th</sup> St., Suite 100  
Phoenix, Arizona 85016-6266  
Email: [LRO@staff.azbar.org](mailto:LRO@staff.azbar.org)

by:   
SPL/asr

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

**IN THE MATTER OF A MEMBER OF THE  
STATE BAR OF ARIZONA,**

**LISE R. WITT,  
Bar No. 013118**

**Respondent**

**PDJ 2021-9111**

**DECISION AND ORDER  
IMPOSING SANCTIONS**

[State Bar No. 21-2120]

**FILED JULY 15, 2022**

The State Bar filed a one-count complaint against Respondent Lise R. Witt on December 20, 2021. An evidentiary hearing was held on June 15, 2022 before a hearing panel comprised of Presiding Disciplinary Judge Margaret H. Downie, attorney member Michael R. Palumbo, and public member Howard Weiske. The State Bar of Arizona was represented by Senior Bar Counsel Stephen P. Little. Ms. Witt was present and was represented by Kathleen E. Brody. Numerous exhibits were admitted into evidence, and the following individuals testified:

- Lise R. Witt
- Charles Naegle
- Kaleigh Jenkins
- Tainisha Haynes

Having considered the record before it, the hearing panel issues the following findings of fact, conclusions of law, and sanction in the form of a reprimand, probation, and the payment of costs to the State Bar.

**FINDINGS OF FACT**

1. Ms. Witt was admitted to the State Bar of Arizona on May 17, 1990. She was on inactive status from August 1997 until January 27, 2005, when she was placed on

interim suspension. Ms. Witt was disbarred by Judgment and Order of the Supreme Court of Arizona filed September 26, 2006, with an effective date 30 days thereafter. Her first two applications for reinstatement were unsuccessful, but she ultimately was reinstated to the practice of law in Arizona in November 2017.

2. In March 2021, Ms. Witt was retained to represent Larry Williams, who was charged with felony child sex-trafficking offenses in Maricopa County Superior Court. Tainisha Haynes was a co-defendant in the criminal proceedings, and she was represented by attorney Charles Naegle. Both Mr. Williams and Ms. Haynes were in custody.

3. Ms. Witt emailed Mr. Naegle on April 26, 2021 to “start a discussion . . . about whether your client, Tanisha [sic] Haynes, is willing to sign an affidavit essentially stating that the facts and circumstances alleged by the victim never happened; i.e., that the victim is lying and that Larry is not a pimp.” Ms. Witt advised that Mr. Williams was “willing to do the same” for Ms. Haynes. Mr. Naegle did not respond to Ms. Witt’s email or to her follow-up telephone messages. Mr. Naegle testified at the disciplinary hearing that he intended to respond by declining Ms. Witt’s suggestion, which he deemed “absurd,” “idiotic” legal strategy, and not in his client’s best interest.

4. Ms. Haynes tried to call Ms. Witt multiple times from jail to discuss the idea of cooperating with Mr. Williams via reciprocal affidavits. Ms. Witt initially declined to answer calls identified as coming from the Estrella jail. However, Mr. Williams told her that Ms. Haynes might be trying to reach her, and she ultimately accepted a call from Ms. Haynes on June 11, 2021. During the ensuing 15-20 minute phone call, Ms. Witt and

Ms. Haynes discussed the concept of reciprocal affidavits. Ms. Witt agreed to visit Ms. Haynes in jail on June 17, 2021. She also advised Ms. Haynes to speak to her own lawyer about the affidavit idea.

5. Mr. Naegle did not know about or consent to Ms. Witt's June 11, 2021 telephonic communication with his client.

6. Before the jail visit, Ms. Witt reviewed statements Ms. Haynes had made to law enforcement because she did not want to draft an affidavit that contradicted those statements.

7. Ms. Witt visited Ms. Haynes at the jail for approximately one hour on June 17, 2021. On a jail form, Ms. Witt wrote, "attorney" when asked for her "relationship to inmate." She gave jail personnel her State Bar card, and no one inquired whether she was Ms. Haynes's lawyer.

8. Ms. Witt advised Ms. Haynes that an affidavit would help both her own case and Mr. Williams's and further stated that it would not hurt Ms. Haynes.

9. Mr. Naegle did not know about or consent to Ms. Witt's jail visit with his client.

10. After the jail visit, Ms. Witt prepared an affidavit for Ms. Haynes's signature and mailed it to her, along with a cover letter. She did not copy Mr. Naegle on the correspondence. Ms. Haynes signed the affidavit and returned it to Ms. Witt.

11. Ms. Witt did not coerce or pressure Ms. Haynes into signing the affidavit.

12. Ms. Haynes knew that Mr. Naegle was her lawyer and that Ms. Witt was not her lawyer.

13. Ms. Witt included Ms. Haynes's affidavit with a plea deviation request she submitted on Mr. Williams's behalf to prosecutor Kaleigh Jenkins. Ms. Jenkins followed up by asking: "In regards to the affidavit from Ms. Haynes, I assume that you spoke with Mr. Naegle about it prior to sending it to me and prior to her providing it to you? Please let me know." Ms. Witt replied: "Why is that relevant?"

14. Prosecutor Jenkins thereafter sought disclosure from Ms. Witt about her contacts with co-defendant Haynes. In response, Ms. Witt advised she was "withdrawing the sworn statement of Tainisha Haynes" and asked that it not be considered when evaluating the plea deviation request. Although Ms. Jenkins agreed not to consider the affidavit, she continued to request disclosure about the contacts Ms. Witt had with Ms. Haynes and the circumstances surrounding the affidavit. Ms. Witt took the position that such information was not discoverable by the State.

15. Mr. Naegle learned of Ms. Witt's communications with his client from prosecutor Jenkins. He testified that Ms. Witt's actions undermined work he had been performing on Ms. Haynes's behalf, that the affidavit did not benefit his client, and that the affidavit contradicted statements she had made to law enforcement. Additionally, the affidavit brought a halt to discussions Mr. Naegle had been having with the prosecutor about Ms. Haynes submitting to a "free talk" and testimonial agreement whereby she would testify against Mr. Williams. The affidavit, Mr. Naegle testified, "put the brakes on the State's willingness to negotiate." Prosecutor Jenkins corroborated this testimony, stating that although no "concrete" plea offer was on the table, she and Mr.

Naegle had been discussing possible resolutions of Ms. Haynes's case, and the affidavit halted those discussions.

16. During a trial management conference on September 13, 2021, discussion ensued about Ms. Witt having communicated with co-defendant Haynes without her lawyer's knowledge or consent. Judge Korbin Steiner asked Ms. Witt: "[W]ould you like to enlighten me on this, because those are some pretty serious allegations." Ms. Witt responded: "You know, Your Honor, I would, but I do not want to break attorney-client privilege, work product privilege, and in an abundance of caution, I assert my Fifth Amendment right against self-incrimination." When the judge asked if Ms. Witt planned to withdraw from Mr. Williams's representation, she replied in the negative. The court then inquired whether she had consulted with bar counsel or ethics counsel, and Ms. Witt again responded in the negative. Judge Korbin Steiner stated: "I would highly . . . suggest you do that. You're telling me you are invoking your Fifth Amendment privilege, and you're telling me at the same time you're not withdrawing off this case. I am clearly limited in information and that's ok. But . . . I'm concerned about what I just heard." Later during the hearing, the court advised Ms. Witt: "[I]f what has been alleged is true, I may need to refer you to the Bar if you're not self-referring. I hate saying that. That's never something a judge wants to say, but I am very concerned about what I heard." Ms. Witt advised the court: "I do take this very seriously and I will be consulting with ethics counsel."

17. On September 21, 2021, Ms. Witt's counsel contacted the State Bar on Ms. Witt's behalf to report her violation of ER 4.2. Ms. Witt has consistently maintained that she was previously unaware of ER 4.2's prohibition.

18. On September 22, 2021, prosecutor Jenkins filed a document entitled "State's Motion for Determination of Counsel," arguing that Ms. Witt had made herself a "necessary material witness" and that the affidavit Ms. Witt prepared included avowals "in direct contradiction to statements" Ms. Haynes had made to law enforcement. That same day, Ms. Witt filed a motion to withdraw, citing "the issues discussed on the record on September 13 and the State's Motion filed on September 22."

19. Ms. Witt admits violating ER 4.2. However, the State Bar did not prove that she did so knowingly. Although Ms. Witt's ignorance of the rule is inexcusable, "knowledge" requires "the conscious awareness of the nature or attendant circumstances of the conduct." *In re White-Steiner*, 219 Ariz. 323, 325 (2009). "[M]erely knowing one performs particular actions is not the same as consciously intending by those actions to engage in unethical conduct. The actor must also know the nature and circumstances of those actions[.]" *In re Van Dox*, 214 Ariz. 300, 305 (2007).

### CONCLUSIONS OF LAW

1. The State Bar proved by clear and convincing evidence that Ms. Witt violated ER 4.2, which states:

In representing a client, a lawyer shall not communicate about the subject of the representation with a party the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized by law to do so.

The prohibition against communicating with represented parties without the consent of their counsel has existed for decades. *Cf. United States v. Lopez*, 4 F.3d 1455, 1458-59 (9th Cir. 1993) (tracing history of no-contact rule to ABA Canons of Professional Ethics promulgated in 1908 and noting that “some version of the rule is in effect in all fifty American states.”). The rule “shields a party’s substantive interests against encroachment by opposing counsel and safeguards the relationship between the party and her attorney.” *Id.* at 1459. ER 4.2 also prevents “unprincipled attorneys from exploiting the disparity in legal skills between attorneys and lay people” and helps prevent the inadvertent disclosure of privileged information. *May I Have a Word With You: Oops, Have I Already Violated the No-Contact Rule?*, 6 Phoenix L. Rev. 433, 436 (2013); *see also In re Howes*, 123 N.M. 311 (1997) (important purpose of no-contact rule is “to protect a person represented by counsel ‘not only from the approaches of his adversary’s lawyer, but from the folly of his own well-meaning initiatives and the generally unfortunate consequences of his ignorance.’”).

2. The same misconduct establishing the ER 4.2 violation establishes Ms. Witt’s violation of ER 8.4(d) (conduct prejudicial to the administration of justice). A violation of ER 8.4 (d) “does not require a mental state other than negligence.” *In re Alexander*, 232 Ariz. 1, 11, (2013). A lawyer’s conduct violates ER 8.4(d) if it causes injury or potential injury. *In re Martinez*, 248 Ariz. 458, 467, 471 (2020) (prosecutor’s improper comments to juries “at least potentially caused harm to the public and the legal system” and “jeopardized the integrity of the legal system.”). Ms. Witt’s misconduct caused both actual and potential harm, as we discuss in more depth *infra*.



3. The State Bar did not prove by clear and convincing evidence that Ms. Witt violated ER 4.4(a), which, as relevant here, prohibits lawyers from using methods of obtaining evidence that violate the legal rights another person. “The rule against communicating with represented parties is fundamentally concerned with the *duties* of attorneys, not with the *rights* of parties.” *Lopez*, 4 F.3d at 1462. If there were evidence that Ms. Witt invaded the attorney-client privilege existing between Ms. Haynes and her lawyer, the hearing panel might well reach a different conclusion. *See, e.g., In re Neary*, 84 N.E.3d 1194 (Ind. 2018) (prosecutor suspended for four years for eavesdropping on conversations between defendants and their lawyers, in violation of ER 4.4(a)); *In re Eisenstein*, 485 S.W.3d 759 (Mo. 2016) (attorney suspended for using information divorce client obtained through unauthorized access to wife’s email account; material included list of direct examination question sent by wife’s attorney).

4. The State Bar did not prove by clear and convincing evidence that Ms. Witt violated ER 4.1 by knowingly making a false statement of material fact or law to a third person. Even assuming *arguendo* that Ms. Witt should not have written “attorney” on the jail visitor form, this was not proven to be a “material fact.” As for telling Ms. Haynes that an affidavit would not hurt her case, but would instead help both her and Mr. Williams, such statements are arguably opinions, rather than facts. But even if Ms. Witt’s assessment was incorrect as a factual matter, the undisputed evidence was that she believed the reciprocal affidavit strategy would benefit both defendants. For these same reasons, the State Bar did not prove by clear and convincing evidence that Ms. Witt violated ER 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation).

“[A] lawyer cannot violate ER 8.4(c) by acting negligently; a violation of ER 8.4(c) must rest upon behavior that is knowing or intentional and purposely deceives or involves dishonesty or fraud.” *In re Clark*, 207 Ariz. 414, 417 (2004).

### **SANCTION**

Sanctions imposed against lawyers “shall be determined in accordance with the American Bar Association *Standards for Imposing Lawyer Sanctions* (“ABA Standards”). Rule 58(k), Ariz. R. Sup. Ct. In fashioning an appropriate sanction, the hearing panel considers the duty violated, the lawyer’s mental state, the actual or potential injury caused by the misconduct, and the existence of aggravating and mitigating factors. *See In re Scholl*, 200 Ariz. 222, 224 (2001).

“The duty violated in this instance involves an attorney’s duty to the legal system not to communicate improperly with those who are represented by other attorneys, one of the most elementary premises of the adversary system.” *Howes*, 123 N.M. 322. Ms. Witt’s ignorance of ER 4.2’s bright-line, easy-to-understand prohibition is troubling. Excluding the years she was disbarred or on inactive status, Ms. Witt had practiced law for more than 10 years when she engaged in the unauthorized communications with Ms. Haynes. Many of those years were spent as a city prosecutor who presumably would have regularly handled cases involving individuals represented by counsel.

Ms. Witt’s misconduct caused both actual and potential harm. Her unauthorized communications with Ms. Haynes -- culminating in the affidavit -- brought a halt to settlement discussions between Mr. Naegle and the prosecutor. They also prolonged and expanded the proceedings. The superior court was required to address the issue, and the

State filed a motion for determination of counsel based on Ms. Witt's unauthorized contacts. Additionally, there was potential serious harm to Ms. Haynes due to inconsistencies the prosecutor outlined in her motion and at the September 13, 2021 hearing between statements she made to law enforcement and avowals she made in the affidavit Ms. Witt prepared.

The following ABA Standards are relevant to the misconduct found by the hearing panel:

6.32 Suspension is generally appropriate when a lawyer engages in communication with an individual in the legal system when the lawyer knows that such communication is improper, and causes injury or potential injury to a party or causes interference or potential interference with the outcome of the legal proceeding.

6.33 Reprimand is generally appropriate when a lawyer is negligent in determining whether it is proper to engage in communication with an individual in the legal system, and causes injury or potential injury to a party or interference or potential interference with the outcome of the legal proceeding.

6.34 Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence in improperly communicating with an individual in the legal system, and causes little or no actual or potential injury to a party, or causes little or no actual or potential interference with the outcome of the legal proceeding.

Section 6.32 (suspension) does not apply because the hearing panel cannot find that Ms. Witt knew her communications with Ms. Haynes were improper. Section 6.34 (admonition) is inapplicable because Ms. Witt's actions caused actual and potential harm. Reprimand, then, is the presumptive sanction. *See also* ABA Standard 6.33, Commentary ("Most courts impose reprimands on lawyers who engage in improper communications.").

Next, the hearing panel considers relevant aggravating and mitigating factors in order to determine whether a deviation from the presumptive sanction of reprimand is appropriate. Aggravating and mitigating factors need only be supported by reasonable evidence. *In re Abrams*, 227 Ariz. 248, 252 (2011).

The State Bar established the following aggravating factors:

**9.22(a) – prior disciplinary offenses.**

As noted *supra*, Ms. Witt was disbarred in 2006. In the disbarment proceedings, it was determined that she incorporated and acted as statutory agent for a corporate entity “created for the sole purpose of generating false expenses” submitted to Medicare for reimbursement. In 2004, she was convicted of a felony violation of 18 U.S.C. § 1347 -- Health Care Fraud. She was sentenced to three years’ probation with six months of home detention and assessed fines and assessments, with a notation she had “paid \$125,000 to the government in lieu of a restitution order.” The Disciplinary Commission found that Ms. Witt engaged in a pattern of misconduct over a four-year period by “regularly signing off on fraudulent statements.”

Prior discipline is an aggravating factor that weighs heavily against a respondent attorney. *In re Brady*, 186 Ariz. 370, 375 (1996). On the other hand, the misconduct that led to Ms. Witt’s disbarment occurred approximately two decades ago. For that reason, the hearing panel accords her prior discipline somewhat less weight in aggravation than it would have the misconduct been more recent or similar in substance to the misconduct proven in these proceedings.

**9.22(i) – substantial experience in the practice of law.** Ms. Witt had practiced law for more than 10 years when the misconduct at issue occurred. She has been a member of the Arizona Attorneys for Criminal Justice since 2012, has served on its legislative committee, and holds herself out as an experienced criminal defense lawyer.

Ms. Witt established the following mitigating factors by reasonable evidence:

**9.32(b) – absence of a dishonest or selfish motive.** Ms. Witt’s misconduct arose out of an ill-guided attempt to help her own client.

**9.32(e) – full and free disclosure to disciplinary board or cooperative attitude toward proceedings.** Ms. Witt self-reported her violation of ER 4.2, albeit after the superior court indicated it would likely refer her to the State Bar absent a self-report.

**9.32(l) – remorse.** Ms. Witt testified that she regrets her ethical violation and the effect it had on Mr. Williams and Ms. Haynes.

After considering the aggravating and mitigating circumstances, the hearing panel concludes that the presumptive sanction of reprimand remains appropriate. It further concludes that a term of probation is appropriate in order to protect the public and deter future misconduct. *See In re Zawada*, 208 Ariz. 232, 236 (2004).

## CONCLUSION

Based on the foregoing, the hearing panel orders:

1. Lise R. Witt is reprimanded for violating Rule 42, Ariz. R. Sup. Ct., ER 4.2 and ER 8.4(d).
2. Ms. Witt shall serve a two-year term of probation with the following terms:

- (a) During each of the two years of probation, Ms. Witt shall obtain five hours of ethics/professional responsibility continuing legal education (CLE) over and above the 15-hour annual requirement set for mandatory continuing legal education. *See* Rule 45, Ariz. R. Sup. Ct. Ms. Witt shall provide the State Bar Compliance Monitor with evidence of completion of these hours by providing a copy of (1) her handwritten notes; or (2) typed or electronic notes, accompanied by a declaration, statement or affidavit that complies with Rule 80(c), Ariz. R. Civ. P., and which states that she personally prepared the notes while viewing/attending the CLE program. Ms. Will should contact the Compliance Monitor at (602) 340-7258 to make arrangements to submit this evidence.
- (b) Ms. Witt shall commit no further violations of the Rules of Professional Conduct or Rules of the Supreme Court of Arizona.
- (c) Costs of compliance with all terms of probation shall be borne by Ms. Witt.
3. Ms. Witt shall pay the State Bar's costs in an amount to be set by separate order.
- A final judgment and order will follow.

/s/ signature on file  
Margaret H. Downie, Presiding Disciplinary Judge

/s/ signature on file  
Michael R. Palumbo, Attorney Member

/s/ signature on file  
Howard Weiske, Public Member

COPY of the foregoing e-mailed  
this 15<sup>th</sup> day of July, 2022, to:

Kathleen E. Brody  
Mitchell Stein Carey Chapman, PC  
One Renaissance Square  
2 North Central Ave., Suite 1450  
Phoenix, AZ 85004  
Email: [kathy@mscclaw.com](mailto:kathy@mscclaw.com)

Stephen P. Little  
Senior Bar Counsel  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, AZ 85016-6266  
Email: [lro@staff.azbar.org](mailto:lro@staff.azbar.org)

by: SHunt